

Bill No. SB 618

Barcode 195888

Proposed Committee Substitute by the Committee on Children and Families

1 A bill to be entitled
2 An act relating to community residential homes;
3 amending s. 419.001, F.S.; redefining the term
4 "community residential home" to include
5 dwelling units that are licensed to serve
6 residents who are clients of the Department of
7 Elderly Affairs, the Agency for Persons with
8 Disabilities, the Department of Juvenile
9 Justice, or the Agency for Health Care
10 Administration, in addition to clients of the
11 Department of Children and Family Services;
12 requiring that a sponsoring entity of a
13 community residential home and the licensing
14 entity provide information to the local
15 government concerning other community
16 residential homes located within the area of a
17 proposed home; requiring that additional
18 information be provided concerning licensure;
19 prohibiting a licensing entity from issuing a
20 license to a sponsoring entity under certain
21 circumstances; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 419.001, Florida Statutes, is
26 amended to read:

27 419.001 Site selection of community residential
28 homes.--

29 (1) For the purposes of this section, the following
30 definitions shall apply:

31 (a) "Community residential home" means a dwelling unit

Bill No. SB 618

Barcode 195888

1 licensed to serve residents, as defined in paragraph (c), who
2 are clients of the Department of Elderly Affairs, the Agency
3 for Persons with Disabilities, the Department of Juvenile
4 Justice, the Agency for Health Care Administration, or the
5 Department of Children and Family Services, which provides a
6 living environment for 7 to 14 unrelated residents who operate
7 as the functional equivalent of a family, including such
8 supervision and care by supportive staff as may be necessary
9 to meet the physical, emotional, and social needs of the
10 residents.

11 ~~(b) "Department" means the Department of Children and~~
12 ~~Family Services.~~

13 (b) ~~(c)~~ "Local government" means a county as set forth
14 in chapter 7 or a municipality incorporated under the
15 provisions of chapter 165.

16 (c) ~~(d)~~ "Resident" means any of the following: a frail
17 elder as defined in s. 400.618; a physically disabled or
18 handicapped person as defined in s. 760.22(7)(a); a
19 developmentally disabled person as defined in s. 393.063; a
20 nondangerous mentally ill person as defined in s. 394.455(18);
21 or a child as defined in s. 39.01(14), s. 984.03(9) or (12),
22 or s. 985.03(8).

23 (d) ~~(e)~~ "Sponsoring agency" means an agency or unit of
24 government, a profit or nonprofit agency, or any other person
25 or organization which intends to establish or operate a
26 community residential home.

27 (2) Homes of six or fewer residents which otherwise
28 meet the definition of a community residential home shall be
29 deemed a single-family unit and a noncommercial, residential
30 use for the purpose of local laws and ordinances. Homes of
31 six or fewer residents which otherwise meet the definition of

Bill No. SB 618

Barcode 195888

1 a community residential home shall be allowed in single-family
2 or multifamily zoning without approval by the local
3 government, provided that such homes shall not be located
4 within a radius of 1,000 feet of another existing such home
5 with six or fewer residents. Such homes with six or fewer
6 residents shall not be required to comply with the
7 notification provisions of this section; provided, however,
8 that the sponsoring agency provides to the local government
9 prior to occupancy the most recently published compiled data
10 that identifies all community residential homes in the county
11 in which the proposed site is to be located in order to show
12 that no other community residential home is within a radius of
13 1,000 feet of the proposed home with six or fewer residents ~~or~~
14 ~~the department notifies the local government at the time of~~
15 ~~home occupancy that the home is licensed by the department.~~
16 The sponsoring agency or the licensing entity at the time of
17 home occupancy must notify the local government that the home
18 is licensed.

19 (3)(a) When a site for a community residential home
20 has been selected by a sponsoring agency in an area zoned for
21 multifamily, the agency shall notify the chief executive
22 officer of the local government in writing and include in such
23 notice the specific address of the site, the residential
24 licensing category, the number of residents, and the community
25 support requirements of the program. Such notice shall also
26 contain a statement from the licensing entity ~~district~~
27 ~~administrator of the department~~ indicating the need for and
28 the licensing status of the proposed community residential
29 home and specifying how the home meets applicable licensing
30 criteria for the safe care and supervision of the residents
31 ~~clients~~ in the home. The applicable licensing entity ~~district~~

Bill No. SB 618

Barcode 195888

1 ~~administrator~~ shall also provide to the local government the
2 most recently published data compiled that identifies all
3 community residential homes in the county ~~district~~ in which
4 the proposed site is to be located. The local government
5 shall review the notification of the sponsoring agency in
6 accordance with the zoning ordinance of the jurisdiction.

7 (b) Pursuant to such review, the local government may:

8 1. Determine that the siting of the community
9 residential home is in accordance with local zoning and
10 approve the siting. If the siting is approved, the sponsoring
11 agency may establish the home at the site selected.

12 2. Fail to respond within 60 days. If the local
13 government fails to respond within such time, the sponsoring
14 agency may establish the home at the site selected.

15 3. Deny the siting of the home.

16 (c) The local government shall not deny the siting of
17 a community residential home unless the local government
18 establishes that the siting of the home at the site selected:

19 1. Does not otherwise conform to existing zoning
20 regulations applicable to other multifamily uses in the area.

21 2. Does not meet applicable licensing criteria
22 established and determined by the department, including
23 requirements that the home be located to assure the safe care
24 and supervision of all clients in the home.

25 3. Would result in such a concentration of community
26 residential homes in the area in proximity to the site
27 selected, or would result in a combination of such homes with
28 other residences in the community, such that the nature and
29 character of the area would be substantially altered. A home
30 that is located within a radius of 1,200 feet of another
31 existing community residential home in a multifamily zone

Barcode 195888

1 shall be an overconcentration of such homes that substantially
2 alters the nature and character of the area. A home that is
3 located within a radius of 500 feet of an area of
4 single-family zoning substantially alters the nature and
5 character of the area.

6 (4) All distance requirements in this section shall be
7 measured from the nearest point of the existing home or area
8 of single-family zoning to the nearest point of the proposed
9 home.

10 (5) If agreed to by both the local government and the
11 sponsoring agency, a conflict may be resolved through informal
12 mediation. The local government shall arrange for the
13 services of an independent mediator or may utilize the dispute
14 resolution process established by a regional planning council
15 pursuant to s. 186.509. Mediation shall be concluded within
16 45 days of a request therefor. The resolution of any issue
17 through the mediation process shall not alter any person's
18 right to a judicial determination of any issue if that person
19 is entitled to such a determination under statutory or common
20 law.

21 (6) The licensing entity may ~~department shall~~ not
22 issue a license to a sponsoring agency for operation of a
23 community residential home if the sponsoring agency does not
24 notify the local government of its intention to establish a
25 program, as required by subsection (3). A license issued
26 without compliance with the provisions of this section shall
27 be considered null and void, and continued operation of the
28 home may be enjoined.

29 (7) A dwelling unit housing a community residential
30 home established pursuant to this section shall be subject to
31 the same local laws and ordinances applicable to other

Bill No. SB 618

Barcode 195888

1 noncommercial, residential family units in the area in which
2 it is established.

3 (8) Nothing in this section shall be deemed to affect
4 the authority of any community residential home lawfully
5 established prior to October 1, 1989, to continue to operate.

6 (9) Nothing in this section shall permit persons to
7 occupy a community residential home who would constitute a
8 direct threat to the health and safety of other persons or
9 whose residency would result in substantial physical damage to
10 the property of others.

11 (10) The siting of community residential homes in
12 areas zoned for single family shall be governed by local
13 zoning ordinances. Nothing in this section prohibits a local
14 government from authorizing the development of community
15 residential homes in areas zoned for single family.

16 (11) Nothing in this section requires any local
17 government to adopt a new ordinance if it has in place an
18 ordinance governing the placement of community residential
19 homes that meet the criteria of this section. State law on
20 community residential homes controls over local ordinances,
21 but nothing in this section prohibits a local government from
22 adopting more liberal standards for siting such homes.

23 Section 2. This act shall take effect July 1, 2005.
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